THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

C.M.A.No.2580 of 2001

ORDER:

The appellant filed O.P.No.1797 of 1999 in the Court of Additional Special Judge for S.P.E. and A.C.B. cases–cum-VI Additional Chief Judge, City Civil Court, Hyderabad under Section 372 of the Indian Succession Act, claiming the death benefits of late Narsimha. She pleaded that she was initially married to one Sri Nagabushanam in the year 1956 and had two sons, by name Vijaya Kumar and Varadaraj and that Nagabushanam died after the birth of Varadaraj. It was also pleaded that she married Narsimha in the year 1961 but she did not beget children through him. On that account, Narsimha is said to have married the 1st respondent and through her also, he did not have any children. He was employed as Maison Grade-II in the South Central Railway and died on 02.10.1999. The appellant further pleaded that herself and her two sons were residing with the deceased and he performed the marriages of two sons. The obsequies of the deceased were said to have been performed by her sons only.

The 1st respondent opposed the O.P. and stated that except herself, none else was married to Narsimha. She contends that the illegitimate relationship, if any, between Narsimha and the appellant cannot lead to denial of her legal right to succeed to the benefits of the deceased. Through its order, dated 23.07.2001, the trial Court dismissed the O.P. Hence, this C.M.A.

The trial Court framed the following issues for its consideration:

1. Whether this Hon'ble Court having jurisdiction to enter try and dispose off the above O.P.?
2. Whether the petitioner is legally wedded wife of late Narsimha S/o.lae Agaiah?
3. Whether the petitioner is entitled for grant of succession certificate in her favour as prayed for?

On behalf of the appellant, P.Ws.1 to 3 were examined and Exs.A.1 to A.11 were marked. The 1st respondent deposed as R.W.1 and on her behalf, Exs.B.1 to B.11 were filed.

The claim in the C.M.A. was for the death-cum-retirement benefits of late Narsimha. It is not as if the appellant was in any way related to him by blood or otherwise or that the 1st respondent is a stranger to the estate of the deceased. Even as per the admission of the appellant, the deceased was married to 1st respondent. Except making a bald claim that she married Narsimha, before the marriage of the 1st respondent with him, the claim was not at all substantiated. The only legitimate marriage, which the deceased had was with the 1st respondent. There would have been some scope, had the appellant got any issues through the deceased, though illegitimate. Admittedly, her two sons were born through her husband Nagabushanam, The net result is that the appellant cannot claim the benefits of the deceased, since she was not married to him, nor her children can claim the benefits, since they too do not have any relationship. The trial Court has examined the matter on correct lines and this Court is not inclined to interfere

with the findings recorded by it.

The C.M.A. is accordingly dismissed. There shall be no order as to costs.

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23.07.2010

JSU

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Date: 23.07.2010

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